

REMARKS

Claims 1-8, 14-17, 19-22, 28 and 33-37 are pending in this application. Claims 1-8 have been allowed. The Examiner has indicated that claims 15-16 and 19-21 contain allowable subject matter and would be allowable if rewritten to overcome the § 112 rejections (claims 19-21) and to include all of the limitations of the base claim and any intervening claims. This amendment cancels claims 15 and 19, amends the specification and claims 14, 16, 20, 22, 33 and 35. Support for the amendments to the specification and claims can be found in the specification, claims and drawings as originally filed. No new matter has been added.

The Examiner has rejected claims 19-22 under 35 U.S.C. § 112, second paragraph, for indefiniteness. The Examiner asserts that claim 19 does not limit further claim 15 from which it depends. In response, claim 19 has been canceled and, therefore, the rejection is moot. Further, the Examiner asserts that the recitation "said distribution plate" in claim 22 lacks antecedent basis. In response, claim 22 has been amended to provide proper antecedent basis and to change its dependency. In view of the foregoing, withdrawal of the rejection of claims 20-22 is respectfully requested.

The Examiner has rejected claims 14, 17 and 22 under 35 U.S.C. § 102(b) for anticipation by U.S. Patent No. 2,489,182 to Huck, and claims 17 and 28 under 35 U.S.C. § 103(a) for obviousness over Huck. To overcome this rejection and to place claims 14-17, 20-22, 28 and 37 in condition for allowance, claim 15 has been cancelled and the limitations found in allowable claim 15 have been added to amended independent claim 14. Claim 16 has been amended to change its dependency from claim 15 to claim 14. Claim 20 has been amended to change its dependency from claim 19 (now canceled) to claim 14. Claim 22 has been amended to change its dependency from claim 13 to claim 14. Because claims 16-17, 20-22, 28 and 37 depend either directly or indirectly from amended claim 14, withdrawal of the rejections and allowance of claims 14, 16-17, 20-22, 28 and 37 are respectfully requested.

The Examiner has rejected claims 33-36 under 35 U.S.C. § 102(b) for anticipation by U.S. Patent No. 3,147,822 to Watts. The Examiner asserts that the limitations in these claims merely require that the elastomeric member contains material on an outside surface of the head and, therefore, the apparatus disclosed in Watts meets these claims. Because none of the cited

Application No. 09/937,792
Paper dated January 20, 2005
In Reply to USPTO Correspondence of October 20, 2004
Attorney Docket No. 2046-011632

prior art discloses the friction modifying material contained on an upper surface of the crown of a rail as indicated by the Examiner, independent claims 33 and 35 have been amended to include the limitation "wherein the material is contained on an upper surface of the crown of the head of the rail." Support for the amendment to the claims can be found, for example, in Fig. 7, claim 1 and on page 7, lines 28-36 of the present specification. In view of the above amendments to independent claims 33 and 35, withdrawal of the rejections and allowance of claims 33-36 are respectfully requested.

The specification has also been amended to include language that is consistent with the language found in amended claims 33 and 35.

Based on the foregoing amendments and remarks, withdrawal of the rejections and allowance of pending claims 1-8, 14, 16-17, 20-22, 28 and 33-37 are respectfully requested.

Respectfully submitted,

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